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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,979	09/11/2003	Joseph Neil Kryzak	X-1366 US	5058
24309	7590	06/27/2007		
XILINX, INC ATTN: LEGAL DEPARTMENT 2100 LOGIC DR SAN JOSE, CA 95124				
			EXAMINER JUNG, DAVID YIUK	
			ART UNIT 2134	PAPER NUMBER
			MAIL DATE 06/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/659,979

Applicant(s)

KRYZAK ET AL.

Examiner

David Y. Jung

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-11 and 21-31 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1-11 and 21-31 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on ____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/05/2/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

CLAIMS PRESENTED

Applicant has responded to the restriction requirement. At this moment, claims 1-11, 21-31 are presented.

CLAIM REJECTIONS

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Regarding claims 1-11, 21-31, the claimed invention is directed to non-statutory subject matter.

Regarding claims 1-11, these claims consist solely of executing a particular mathematical algorithm of using a scrambling remainders in a particular way of framing a transmit code word. Guidance on this topic is provided by MPEP 2106: "In practical terms, claims define nonstatutory processes if they: – consist solely of mathematical operations without some claimed practical application (i.e., executing a "mathematical algorithm")." Thus, the subject matter of claims 1-11 is not eligible for a patent.

Regarding claims 21-31, these claims do recite the word "apparatus."

Nevertheless, the rest of the claims consist solely of executing a particular mathematical algorithm of using a scrambling remainders in a particular way of framing a transmit code word. Merely claiming nonfunctional descriptive material (i.e., abstract idea such

Art Unit: 2134

as an algorithm) stored on a mere "apparatus" (such as a computer-readable medium, in a computer, or on an electromagnetic carrier signal) does not make it statutory.

Thus, the subject matter of claims 21-31 is not eligible for a patent.

Allowable Subject Matter

The prior art of record does not teach or suggest the particular handling of scrambling remainders in such particular context as in the limitations of the claims. If the Patent Office does not become aware of more relevant prior art, claims may be allowable if rewritten or amended to overcome the rejections under 35 U.S.C. 101 set forth in this Office action.

Conclusion

The art made of record and not relied upon is considered pertinent to applicant's disclosure. The art disclosed general background.

Points of Contact

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

Art Unit: 2134

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

Or:

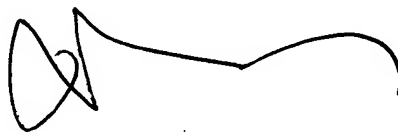
(571) 273-3836 (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Jung whose telephone number is (571) 272-3836 or Kambiz Zand whose telephone number is (272) 272-3811.

David Jung

Patent Examiner

6/15/07

A handwritten signature in black ink, consisting of a stylized 'D' followed by a horizontal line and a wavy flourish.